

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be additional reimbursement of \$7,034.50 for dates of service 06/26/01 through 08/28/01.
- b. The request was received on 03/15/02.

II. EXHIBITS

1. Requestor, Exhibit I:
 - a. TWCC 60 and Letter Requesting Dispute Resolution dated 04/24/02
 - b. HCFA(s)-1500
 - c. TWCC 62 forms/Medical Audit summary dated 03/11/02
 - d. Example EOB(s) from other carriers
 - e. Medical Records
 - f. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit II:
 - a. TWCC 60 and Response to a Request for Dispute Resolution dated 05/16/02
 - b. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. Per Rule 133.307 (g) (3), the Division forwarded a copy of the requestor's 14 day response to the insurance carrier on 05/03/02. Per Rule 133.307 (g) (4) the carrier representative signed for the copy on 05/06/02. The response from the insurance carrier was received in the Division on 05/16/02. Based on 133.307 (i) the insurance carrier's response is timely.
4. Notice of Medical Dispute is reflected as Exhibit III of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor: Letter dated 04/24/02:
“We are submitting herewith redacted Benefits from twenty-five (25) carriers supporting our rate of \$128/hour as Fair and Reasonable....We seek full reimbursement for the outstanding balance of \$7,034.50, along with interest accrued according to Rule 134.803.”
2. Respondent: Letter dated 05/16/02:
“EOBs do not establish or identify payment based on a consistent method as required by Rule 133.304(i)....II.This carrier has met its burden of proof by determining a fair and reasonable reimbursement for chronic pain management programs. A. This carrier’s research involved an in-depth review of CARF accredited pain management programs.... This carrier’s fair and reasonable fee reimbursement was derived through evaluating the CPT codes and corresponding fee amounts associated with those codes submitted by these facilities and the actual program descriptions of the activities billed with the CPT codes...the (Carrier) reimburses CARF accredited chronic pain management programs at \$92.50/hour...The requester is CARF accredited;...the reimbursed amount of \$92.50/hour.”

IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1) (2), the only dates of service eligible for review are those commencing on 06/26/02 extending through 08/28/02.
2. The provider billed a total of \$25,257.00 on the dates of service in dispute.
3. The carrier reimbursed a total of \$18,222.50; the amount in dispute per the TWCC 60 is \$7,034.50. The EOB has the denial of “M – THE REIMBURSEMENT FOR THE SERVICE RENDERED HAS BEEN DETERMINED TO BE FAIR AND REASONABLE BASED ON BILLING AND PAYMENT RESEARCH AND IS IN ACCORDANCE WITH LABOR CODE 413.011(B).” A medical audit dated 03/11/02 stated, “The amount reimbursed is deemed fair and reasonable based on the documentation submitted.”
4. The carrier’s response is timely. No other EOB(s) or re-audits were noted. The Medical Review Division’s decision is rendered based on the denial code submitted to the Provider prior to the date of the dispute being filed.

V. RATIONALE

Medical Review Division's rationale:

The medical documentation indicates the services were performed at an ambulatory surgery center. Commission Rule 134.401 (a)(4) states ASCs, "shall be reimbursed at a fair and reasonable rate..."

Section 413.011 (b) of the Texas Labor Code states, "Guidelines for medical services must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fees charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual's behalf. The Commission shall consider the increased security of payment afforded by this subtitle in establishing the fee guidelines."

The provider submitted EOB(s) from 25 other carriers supporting their position that their reimbursement rate of \$128.00 per hour is fair and reasonable. Each EOB submitted by the provider indicates 100% reimbursement rate of the billed charges.

The carrier's methodology did not meet the criteria of 134.304 (i). The carrier explained how it arrived at its methodology, but did not submit the research data of the reviews supporting the calculations of determining the reimbursement rates.

Regardless of the carrier's application of its methodology, lack of methodology, or response, the burden is on the provider to show that the amount of reimbursement requested is fair and reasonable. The provider's documentation is EOB(s) or is based on EOB(s). However, analysis of recent decisions of the State Office of Administrative Hearings indicate minimal weight is given to EOB(s) for documenting fair and reasonable reimbursement. The willingness of some carriers to provide reimbursement at or near the billed amount does not necessarily document that the billed amount is fair and reasonable and does not show how effective medical cost control is achieved, a criteria identified in Sec. 413.011(d) of the Texas Labor Code.

The above Findings and Decision are hereby issued this 19th day of July 2002.

Donna M. Myers, B.S.
Medical Dispute Resolution Officer
Medical Review Division

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